

**REMARKS**

Reconsideration of the application as amended is respectfully requested.

Claims 1, 2, 4, 6-11 and 13-20 are in the application. Through this Amendment, claims 1, 6, 7, 13 and 14 have been amended, while claims 5 and 12 have been canceled. Claims 15-20 stand presently withdrawn in view of a previous election requirement.

In the Official Action, the Examiner rejected claims 1, 2 and 4-9 under 35 U.S.C. §102(e) as being allegedly anticipated by Pedmo (U.S. Patent No. 6,585,123).

Pedmo is directed to a plastic bottle 10 which includes a base 18 having an outer rim 28 and a central hub 30. A plurality of struts 34 extend radially from the central hub 30 towards the annular rim 28. (Col. 2, ll. 46-47). As indicated at Col. 3, ll. 24-25, and shown in Fig. 4, a peripheral stepped area 50 may be provided to "facilitate stacking." The stepped area 50 is clearly spaced from the struts 34, as shown in Figs. 1 and 5. (See, also col. 4, ll. 1-3, "[The] base includes a peripheral stepped area to facilitate stacking located between the annular rim and struts.").

Claim 1 is directed to a stackable roller bottle which includes "a closed bottom end" having "an inwardly directed recessed portion for accommodating a cap mounted onto a neck portion end of an adjacent stacked similar container". Claim 1 further states "said recessed portion including a planar surface having at least one rib extending therefrom for defining a space between said cap of said adjacent stacked similar container and said planar surface, said recessed portion further including a side wall extending from said planar surface away from said neck portion end, wherein said side wall being configured to define a gap between said side wall and said cap of said adjacent stacked similar container, said gap being in communication with said space." Pedmo does not disclose or suggest the claimed structure. In particular, the stepped area 50 disclosed in Pedmo for stacking has a planar annular end wall, with no rib extending therefrom. Thus, a similar bottle set into a nested, stacked relationship in the stepped

area 50 will have a full face-to-face engagement with the planar annular end wall, with no space being defined therebetween. There is no disclosure or suggestion in Pedmo to have the domed portion of the bottle, where the struts 34 are defined, to accommodate a stacked container. Moreover, there is no disclosure or suggestion in Pedmo to accommodate a similar container having a cap mounted thereon, much less to have a gap defined between the cap and the side wall. It is respectfully submitted that claim 1, along with dependent claims 2, 4 and 6-9, are patentable over Pedmo.

Claims 1, 2, 4, 5, 9 and 10 were rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Witt (U.S. Patent No. 4,810,652).

Witt is directed to a cell growth harvester for roller bottles. With respect to Fig. 1, a roller bottle 12 is disclosed having a scraper assembly cap 20 mounted thereon, with bushing 22. Shaft 16 extends through bushing 22 from which extend blades 28. The bottom portion 38 of the shaft 16 extends into pocket 36, formed in indentation 32. As set forth at col. 3, ll. 46-48, "the indentation 32 may be utilized as a manner in which bottles may be stacked for storage purposes. Thus, indentation 32 receives an adjacent neck 15 of another roller bottle." There is no disclosure or suggestion in Witt of accommodating a cap mounted onto an adjacent bottle.

As set forth above, claim 1 is directed to a stackable roller bottle which includes "an inwardly directed recessed portion for accommodating a cap mounted onto a neck portion end of an adjacent stacked similar container". As set forth above, Witt does not disclose or suggest such a structure. Rather, Witt discloses nesting bottles for storage, without caps being mounted thereto. In addition, there is no disclosure or suggestion of configuring a side wall to define a gap between the side wall and an accommodated cap. It is respectfully submitted that claims 1, 2, 4, 9 and 10 are patentable over Witt.

Claims 1, 4, 5, 8 and 9 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over deLarosiére (U.S. Patent No. 4,416,373) in view of Der Yuen (U.S. Patent No. 2,641,374). The Examiner asserted that deLarosiére discloses the claimed structure, however,

"includes a curved surface rather than a planar surface." The Examiner relied on Der Yuen for allegedly overcoming this deficiency.

deLarosiére is directed to interlocking stackable bottles. The bottles each include an inwardly extending closure-guide edge 32 which leads to bottle-stacking support ring 30. As shown in Fig. 5, the support ring 30 is a continuous circle. As shown in Fig. 5, the support ring 30 rests on the bottle closure 10 of an adjacent stacked bottle.

With the hypothetical combination suggested by the Examiner, the deLarosiére structure is modified to have a planar, rather than curved, surface. As set forth above, claim 1 states that "said side wall being configured to define a gap between said side wall and said cap of said adjacent stacked similar container, said gap being in communication with said space." With the continuous ring structure 30 of deLarosiére, there is no communication between the side gap defined between the closure 10 and the edge 32 and the space defined above the closure 10 within the support ring 30. In addition, there is no disclosure or suggestion to modify the support ring to be discontinuous or to otherwise have spaces defined therein. Der Yuen does not overcome this deficiency. It is respectfully submitted that claims 1, 4, 8 and 9 are patentable over deLarosiére and Der Yuen, each taken alone or in combination.

Claims 2 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Witt in view of Kayal et al. (U.S. Patent No. 5,695,987). The Examiner admitted that Witt "does not expressly disclose that the space between the two coupled containers permit gases to enter into and out of the liquid opening of the adjacent stacked container, or that the cap further includes a central orifice with an affixed gas permeable membrane." The Examiner asserted that Kayal et al. overcomes this deficiency.

Kayal et al. is directed to a reusable vented flask cap cover which includes a central gas permeable membrane 56. The gas permeable membrane 56 is mounted to a cap 20 that is securable to the flask. (Col. 3, ll. 38-42).

As discussed above, Witt discloses a recess for accepting a neck of an adjacent stacked bottle, but not a cap or closure mounted onto a bottle. Thus, there is no suggestion or motivation to modify Witt where the Kayal et al. cap is accommodated within the recess of Witt. In addition, to the extent that the protrusion (pocket 36) in Witt creates a space above the cap, that protrusion is centrally located and would be positioned to cover the gas permeable membrane 56 of Kayal et al. As such, gas would not be permitted to escape in and out of the container through the gas permeable membrane 56, and the purpose of the gas permeable membrane 56 would be rendered moot. This would result in an impermissible modification of Kayal et al. (See MPEP §2143.01 ("If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or modification to make the proposed modification.")). Moreover, assuming *arguendo* that motivation exists to combine Witt and Kayal et al., the Kayal et al. cap includes a continuous outer peripheral rim. This rim would prevent communication between a space above the cap and a gap adjacent to the side of the cap, as set forth in claim 1. It is respectfully submitted that claims 2 and 11 are patentable over Witt and Kayal et al., each taken alone or in combination.

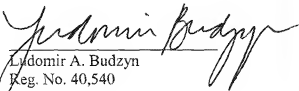
Claims 6, 7, 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Witt in view of Pedmo.

Claims 6, 7, 13 and 14 all depend from claim 1. For the reasons set forth above, neither Pedmo nor Witt disclose the invention of claim 1. A hypothetical combination of Witt and Pedmo also fails to disclose the invention of claim 1. It is respectfully submitted that claims 6, 7, 13 and 14, as depending from claim 1, are patentable over Witt and Pedmo, each taken alone or in combination.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,

  
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